

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JUDITH A. MARSHALL)

For Appellant: Judith A. Marshall, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Paul J. Petrozzi
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the **Franchise** Tax Board on the protest of Judith A. Marshall against a proposed assessment of additional personal income tax in the amount of \$41.90 for-the year 1973.

Appeal of Judith A. Marshall

The sole issue presented is whether appellant was entitled to claim head of household status for the taxable year 1973.

Appellant filed a timely California personal income tax return for 1973. In that return she claimed head of household status and computed her Lax liability **accordingly**. Upon inquiry by respondent, appellant indicated that the individual qualifying her as a head of household was a Mr. Ruble, who lived with her and allegedly received over one-half of his support from her during 1973. Mr. Ruble apparently bears no relationship to appellant other than as a friend.

Respondent disallowed appellant's claimed head of household status on the ground that Mr. Ruble was not a **qualifying** dependent. Appellant protested that action and, upon review, respondent affirmed its disallowance of appellant's claimed head of household status in 1973 but allowed her an \$8.00 dependent exemption credit for **Mr. Ruble**, pursuant to section 17054, subdivision (c), of the **Revenue and Taxation Code**. This timely appeal followed.

But for a reversal of roles, the facts of this case are substantially similar to those presented in the Appeal of Stephen M. Padwa, decided this day. In the Padwa decision we sustained the action of respondent and held that the appellant therein was not entitled to head of household status based upon his living arrangement with a dependent female friend. Our decision in that case was based upon section 17044, subdivision (i), of the Revenue and Taxation Code, which precludes a taxpayer from being considered a head of household when the individual otherwise qualifying as a dependent of the taxpayer is unrelated by blood or marriage. We believe our decision in the instant appeal must be governed by the same principles set forth in the Padwa opinion and, for the reasons stated therein, we sustain respondent's denial of appellant's claimed head of household status for 1973.

Appeal of Judith A. Marshall

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Judith A. Marshall against a proposed assessment of additional personal income tax in the amount of \$41.90 for the year 1973, be and the same is hereby sustained.

Done at Sacramento, California, this 10th day of May, 1977, by the State Board of Equalization.

Sally La Burrell, Chairman
John Doe, Member
George J. Doe, Member
Miss Doe, Member
 , Member

ATTEST: *JR JB Bell*, Executive Secretary